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# 85-134

NO.

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1984

LOUIS J. ZUGER,

APPELLANT,

V.

UNITED STATES OF AMERICA,

Appellee.

ON DIRECT APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT PURSUANT TO ART. III, U.S. CONSTITUTION

## JURISDICTIONAL STATEMENT

LOUIS J. ZUGER
POLITICAL PRISONER
#08133-014
PEMBROKE STATION CAMP
DANBURY, CT 06810

JULY 2, 1985

158 pp

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

## QUESTIONS PRESENTED

(1). By what lawful authority is the appellant incarcerated?

(2). By what lawful authority has the United States of America presumed to infringe upon the God-given, unalienable, and Constitutionally protected rights of the appellant?

(3). By what lawful authority does the United States of America presume to exercise authority over a sovereign, unenfranchised citizen?

(4). By what lawful authority does the United States of America ignore and violate the Constitution of the United States of America?

(5). By what lawful authority does the United States of America ignore the Laws of Nature and of Nature's God?

(6). If statute law has been elevated above "the Laws of Nature and of Nature's God", and Constitutional Law in supremacy, is there any longer any Remedy At Law?

(7). By what authority has the appellant been denied the effective assistance of counsel?

(8). By what authority have the national courts lost sight of their purpose (i.e. to support the "Laws of Nature and of Nature's God" and the Constitution of the United States of America), and in the process, lost the concept of justice, righteousness, and love, under God?

(9). By what authority is the appellant in the custody of the Attorney General,in violation of Title 18, U.S.C., §4001?

(10. Why is President Reagan not in jail, since he recently proclaimed that "Our tax system has come to be Un-American", which is exactly what the appellant is in jail for maintaining?

(11). Does this Court have any authority over the lower courts in criminal cases?

(12). Does this Court have any authorityover the lower courts in civil cases?

(13). Does this Court have any authority over the lower courts in non-law Title 26, U.S.C. "tax" cases?

(14). Are the lower courts part of the same judicial system as the Supreme Court?

(15). Does the Supreme Court function by choosing onlt those cases that are pleasing to the court and/or the political system in power at any given point in time, or does the Supreme Court actually operate under its Constitutionally mandated functions?

(16). By what authority do the lower courts proceed criminally against a sovereign citizen beyond the constitutionally defined crimes of counterfeiting, piracy, and treason?

## LIST OF ALL PARTIES**

THE UNITED STATES OF AMERICA,
PRESIDENT RONALD REAGAN,
ATTORNEY GENERAL RICHARD MEESE,
U.S. ATTORNEY ALAN H. NEVAS,
U.S.D. JUDGE PETER C. DORSEY,
VARIOUS JUDGES OF THE SECOND
CIRCUIT COURT OF APPEALS,
VARIOUS AGENTS OF THE INTERNAL
REVENUE SERVICE,
VARIOUS ASSISTANT U.S. ATTORNEYS.

**NOTE: The appellant is (unlawfully) imprisoned and does not have access to his files. It is impossible for him to make a complete and proper listing of each and every party to this appeal, at this time.

TABLE OF CONTENTS


| | Page |
|---|---|
| Questions presented | i |
| List of all parties | v |
| Table of authorities | vii |
| Opinions below | 1 |
| Jurisdictional grounds in this Court | 5 |
| Constitutional provisions involved | 7 |
| The Laws of Nature and of Nature's God | 15 |
| Statement of the case | 17 |
| Reasons why the questions presented require plenary consideration with briefs on the merits and oral argument. for their resolution | 22 |
| Certificate of Service | 29 |

The Appendix:

| | |
|---|---|
| Table of Contents | 1, 2 |
| Body of Appendix | A-1 to A-116 |

# TABLE OF AUTHORITIES


| | Page |
|---|---|
| ORGANIC LAWS OF THE UNITED STATES: | |
| Declaration of Independence | 15 |
| "The Laws of Nature and of Nature's God" | 6, 15, 16, 25 |
| U.S.A. CONSTITUTION: | 21, 26 |
| Art. III, Sec. 1, 2 | 1, 5, 6, 28 |
| Art. I, Sec. 7 | 24 |
| Art. I, Sec. 1 | 7 |
| Art. I, Sec. 8 | 7 |
| Art. I, Sec. 9 | 8 |
| ARTICLES OF AMENDMENT: | |
| 1st Amendment | 9 |
| 4th Amendment | 10 |
| 5th Amendment | 10 |
| 6th Amendment | 11 |
| 14th Amendment | 12 |
| 16th Amendment | 9 |
| CONSTITUTION OF CONNECTICUT: | |
| Article First, Section 10 | 13 |
| Article Second | 14 |

Page

STATUTES MENTIONED:

Title 1, U.S.C., §204 23

Title 18, U.S.C., §4001 27

Title 18, U.S.C., §455 19

CASES MENTIONED:

Stephan V. United States,
319 U.S. 423, 426 (1943). 2

Cochran v. Birkel,
651 F.2d 1219 (6th Cir. 1981)
cert. denied, 454 U.S. 1152 (1982) 3

Leonhard v. United States,
633 F.2d 599, 610 (2d Cir. 1980)
cert. denied, 451 U.S. 908 (1981) 3

Hodgson v. Mahoney,
460 F.2d 326, 328 (1st Cir.),
cert. denied, 409 U.S. 1039 (1972),
9 Moore's Federal Practice,
¶ 203.11 (2d ed. 1983) 3

United States v. Will,
449 U.S. 200 (1980) 3

Faretta v. California,
422 U.S. 806, 835 n.46 (1975) 3

U.S.A. v.Zuger,
Criminal No. N-84-21 17

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1984

LOUIS J. ZUGER,

APPELLANT

v.

UNITED STATES OF AMERICA,

APPELLEE.

---

ON DIRECT APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT PURSUANT TO ART. III, U.S. CONSTITUTION.

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## JURISDICTIONAL STATEMENT

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## OPINIONS BELOW

"UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

"At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the thirtieth day of January, one thousand nine hundred and eighty-five.

"Present: HONORABLE J. EDWARD LUMBARD,
HONORABLE JON O. NEWMAN
HONORABLE AMALYA L. KEARSE,
Circuit Judges.

- - - - - - - - - - - - - - - - - -

"UNITED STATES OF AMERICA,
Appellee,

v. 84-1318

LOUIS J. ZUGER,
Defendant-Appellant.

- - - - - - - - - - - - - - - - - -

"ORDER

"Louis J. Zuger appeals from a judgment of the District Court for the District of Connecticut (Peter C. Dorsey, Judge) convicting him, after jury trial, on two counts of willful failure to file income tax returns. 26 U.S.C. § 7203 (1982). The appeal is completely frivolous. The undisputed evidence shows that Zuger received sufficient income from his employer to require the filing of income tax returns and that his willful submission of fragmentary "protest" returns, lacking sufficient information to permit computation of gross income tax liability, failed to meet his statutory obligations.

"1. The jurisdiction of the District Court to try offenses for violation of Title 26 of the United States Code is not impaired by the fact that Title 26 is not one of the titles of the Code to have been enacted into positive law. The Internal Revenue Code of 1954, which Zuger was convicted of violating, was duly enacted into law. Act of August 16, 1954, ch. 736, 68A Stat. 3. The Code is prima facie evidence of the contents of the statutes contained therein. Stephan V. United States, 319 U.S. 423, 426 (1943). Zuger makes no claim that Title 26 of the United States Code differs from the Internal

Revenue Code of 1954 as enacted into law and set forth in the statutes at large.

"2. Zuger's prior attempt to take an interlocutory appeal for an order that was not final (which appeal was dismissed, No. 84-1213, June 28, 1984) did not divest the District Court of jurisdiction. See Cochran v. Birkel, 651 F.2d 1219 (6th Cir. 1981). cert. denied, 454 U.S. 1152 (1982); Leonhard v. United States, 633 F.2d 599, 610 (2d Cir. 1980), cert. denied, 451 U.S. 908 (1981); Hodgson v. Mahoney, 460 F.2d 326, 328 (1st Cir.), cert. denied, 409 U.S. 1039 (1972), 9 Moore's Federal Practice, ¶ 203.11 (2d ed. 1983).

"3. Judge Dorsey properly denied motion to disqualify himself because his salary was paid by the United States. See United States v. Will, 449 U.S. 200 (1980).

"4. Zuger was not denied the effective assistance of counsel, having unequivocally elected to defend himself pro se. Faretta v. California, 422 U.S. 806, 835 n.46 (1975).

The judgment of the District Court is affirmed. The mandate shall issue forth.

"N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

/s/ Lumbard
/s/ Newman
/s/ Kearse
Circuit Judges.

(JON)"

Among other reasons why the above order is invalid is that one of the circuit judges, JON O. NEWMAN, should have disqualified himself from hearing the appeal since he is a defendant in lawsuits in which the appellant is a plaintiff (See letter from U.S. Attorney at A-96 & A-97).

In addition, the claims for rehearing (A-5 to A-95) have not been heard or determined by the circuit court, except that rehearing was summarily denied on March 8, 1985.

The appellant has been unlawfully incarcerated at FCI, Danbury, since February 22, 1985, in violation of his due process rights.

Notice of [direct] Appeal to the Supreme Court was filed June 5, 1985.

## JURISDICTIONAL GROUNDS IN THIS COURT

Appellate jurisdiction is granted to this Court in all controversies in which the United States is a party, as per Art. III, Constitution of U.S.A.

That the United States is a de facto party to this controversy is factually proven because:

(1) The appellant is in the de facto custody of the Attorney General of the United States.

(2) The appellant was placed in the de facto custody of the Attorney General by the President of the United States.

(3) The appellant is either de jure under the protections of the Constitution of the United States of America, and/or,

(4) The appellant is de jure under the "Laws of Nature and of Nature's God".

(5) The appellant has been denied the protections of the Constitution of the United States of America by the lower courts of the United States, and by the President of the United States.

(6) The appellant has been denied his unalienable rights under the "Laws of Nature and of Nature's God", by agents of the United States.

(7) The United States is a party to this controversy.

(8) The Supreme Court of the United States has, by Law (Art. III, Constitution of U.S.A.), appellate jurisdiction to hear this appeal.

(9) The Supreme Court of the United States must, by LAW (Art. III, Constitution of U.S.A.), hear this appeal.

## CONSTITUTIONAL PROVISIONS INVOLVED

"All Legislative Powers herein granted shall be vested in a Congress of the United States,..." Art. I, Section 1, Constitution of U.S.A.

Appellant factually states that Title 26, U.S. Code has never been enacted into law by Congress, and that Title 26, U.S. Code is unconstitutional on its face, because it violates Art. I, Sec. 1, Constitution of U.S.A., as well as the "Laws of Nature and of Nature's God".

Title 26, U.S.C. a/k/a Internal Revenue Title is not Law, and does not apply to the appellant in any way, nor can it be applied to the appellant against his express wishes, and those of his God.

***

Art. I, Sec. 8, Cl. 1, Const. U.S.A. mandates that:

"The Congress shall have the Power To lay and collect Taxes, Duties,

imposts and Excises,..."

The Power to Collect Taxes rests exclusively with the Congress. The I.R.S. makes no pretense at being a part of the Congress. "We The People" never granted Congress the power to delegate any of its duty or responsibility to Collect Taxes to an unlawful, outlaw, and ungodly agency" such as the I.R.S.

***

Art. I, Sec. 9, Cl. 4, Const. U.S.A.

> "No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken."

The I.R.S. has conspired to have the appellant unlawfully imprisoned for his refusal to permit a direct tax without apportionment to be imposed upon him.

***

THE 16TH AMENDMENT

The 16th Amendment, which has not been lawfully ratified, created no new form of tax, according to the Supreme Court. Yet said 16th Amendment is the alleged authority under which the I.R.S. operates to unlawfully collect direct taxes. The 16th Amendment has never been lawfully ratified, and appellant has copies of certified documents to prove this.

***

AMENDMENT I

> "Congress shall make no law... abridging the freedom of speech, or of the press;...and to petition the Government for a redress of grievances."

Appellant factually states that his freedom of speech and his right to petition for redress of grievances has been denied; under God, and the Constitution of the United States of America.

AMENDMENT IV

> "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated,..."

Appellant factually states that his Fourth Amendment rights were violated in order to begin the fraudulent proceedings herein appealed.

***

AMENDMENT V

> "No person shall be...deprived of life, liberty, or property, without due process of law;..."

Appellant factually states that ALL proceedings held in the lower courts were in Want of Jurisdiction, a total abuse and denial of due process of law; under God, and the Constitution of the United States of America.

***

AMENDMENT VI

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed,...and to have the Assistance of Counsel for his defence."

Appellant factually states that there is no federal criminal jurisdiction over the appellant; and factually states that the only Constitutionally lawful criminal jurisdiction of the United States over a scvereign citizen is for Treason, Counterfeiting, and Piracy, none of which the appellant has been accused of doing. Any and all allegations of criminal activity would have to have been brought before a State jury, in a State court, and appellant would have to have had the Assistance of Counsel for his defense, all of which were denied to appellant;

under God, and the Constitution of the United States.

***

AMENDMENT XIV

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." (emphasis added)
> Amendment XIV, Sec. 1.

Appellant factually states that there was no evidence submitted in the lower courts to prove that the appellant is subject to the jurisdiction of the United States. The United States ASSUMED that the appellant was "born or naturalized" in the United States; that the appellant was subject to that jurisdiction, and proceeded accordingly. That the presumption (assumption) was false is evidenced in the papers on appeal.

However, assuming arguendo that the

appellant was "subject to the jurisdiction" of the United States, then he would have possessed ALL of the protections afforded him by the Constitution of the United States, including ALL Amendments thereto. The papers on appeal are evidence that the appellant was denied Constitutional rights, by the United States.

***

ARTICLE FIRST, SECTION 10, CONSTITUTION OF THE STATE OF CONNECTICUT

> All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

Appellant factually states that right and justice have not been administered by the lower courts; that appellant's reputation has been irreparably harmed; and that whatever justice there is, is in fact

for sale to the highest bidder.

***

ARTICLE SECOND
CONSTITUTION OF THE STATE OF CONNECTICUT

> The powers of government shall be divided into three distinct departments, and each of them confided to a separate magistracy, to wit, those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

Appellant factually states that the separation of powers mandated in both the State and National Constitutions has been breached by the agents of the appellee, each of whom is a State licensed and enfranchised attorney, and as such is a Commissioner of the Superior Court of the State of Connecticut. State licensed members of the State Courts are constitutionally barred from federal employment of any kind. Appellant is not only asserting that fact herein, he is also a plaintiff

in two (2) lawsuits instituted in the State courts addressing this point of conflict of interest. The appellee's agents have admitted said conflict of interest in both suits. The trial judge, as well as certain circuit judges, should have disqualified themselves from hearing this matter.

## "THE LAWS OF NATURE AND OF NATURE'S GOD"

Reference is made to the "Laws of Nature and of Nature's God" in the Declaration of Independence (1776), which is the first Organic Law Of The United States, according to its listing at pages xxxv to xxxvii preceding Title I, U.S.C.

At paragraph 2 of said Declaration, we find the following:

> "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their

> Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,-..."

The appellant, by Christian birth, heritage, and faith, is a sovereign individual subject only to the "Laws of Nature and of Nature's God". His rights to Life, Liberty, and the Pursuit of Happiness (Property) are unalienable by man, or by man-made government, provided he does not transgress upon the "Laws of Nature and of Nature's God".

There is no evidence in the papers on appeal to indicate that the appellant has transgressed against any of the "Laws of Nature and of Nature's God".

The appellant has not been accused or convicted of any violation of the "Laws of Nature and of Nature's God".

The appellant is unlawfully imprisoned

in violation of the "Laws of Nature and of Nature's God", and his unalienable rights to Life, Liberty, and the Pursuit of Happiness have been unlawfully infringed.

## STATEMENT OF THE CASE

This "criminal" case was instituted by "information" in the U.S. District Court for the District of Connecticut as U.S.A. v.Zuger, Criminal No. N-84-21.

The information, filed March 23, 1984, accused the appellant of two counts "In violation of Section 7203, Internal Revenue Code; Title 26, United States Code, Section 7203."

In instituting "criminal" proceedings against the appellant, the agents of the United States made at least four (4) erroneous presumptions, namely:

(1) That the appellant was subject to

the jurisdiction of the United States, and,

(2) That the Internal Revenue Code a/k/a Title 26, United States Code, was a Law of the United States.

(3) That the appellant was subject to the Internal Revenue Code a/k/a Title 26, United States Code.

(4) That the Constitution of the United States of America did not apply to the appellant.

Those four (4) erroneous presumptions were never addressed or settled by the lower courts. Instead, the awesome power of the United States was brought to bear upon the appellant to force him to submit to, and accept those errors.

On April 2, 1984, the appellant answered the information by filing a Special Appearance in which he entered the following plea: "NO JURISDICTION".

The reasons for the NO JURISDICTION

plea contained in that Special Appearance are:

COUNT 1. Information is Fraudulent.

COUNT 2. Title 26 USC is not Law.
(Preface pages of U.S.Code)

COUNT 3. Title 26 USC is not Law.
(Library of Congress memo)

COUNT 4. Title 26 USC is Unconstitutional. (Art. I, Section 1, U.S. Constitution)

COUNT 5. Title 26 USC is not enforceable. (void for vagueness)

COUNT 6. The Internal Revenue Code is not Law.

COUNT 7. No lawful Plaintiff.
(No U.S. law violated)

COUNT 8. No lawful Plaintiff.
(I.R.S. a private corp.)

COUNT 9. No lawful Plaintiff.
(I.R.S. not part of Congress)

COUNT 10. No qualified judge.

(28 U.S.C. §455)

COUNT 11. The Information is a fraud.

COUNT 12. Equity jurisdiction denied.

(Zuger does not consent).

The Special Appearance was ignored, and the appellant arrested and brought before U.S. Magistrate THOMAS P. SMITH, who entered a plea of "not guilty" for the appellant. Since SMITH was not the attorney for the appellant, and did not have power of attorney from the appellant; and since the Special Appearance was before him, the "not guilty" plea was a dismissal of all charges against the appellant.

Even though Magistrate SMITH had entered an order of "not guilty", the case was processed, brought to trial, etc.

The appellant filed for Interlocutory Appeal (2d Cir. #84-1213), and for stays which were denied. The railroad job contin-

ued simultaneously in the district and circuit courts, ultimately ending in "conviction".

It is interesting to note that both courts were able to operate on the same case at the same time, and neither would stay proceedings, nor overtly recognize the function of the other. In effect, both the circuit and district courts were operating as one court.

What is especially significant in the proceedings is the presumption that the appellant is subject to the jurisdiction of the United States. No attempt was ever made to establish THAT the appellant was subject to the jurisdiction of the United States.

However, IF the appellant was subject to the jurisdiction of the United States, THEN he was entitled to the FULL PROTECTION of the Constitution of the United States of America, and ALL Amendments thereto. NONE

of the appellant's Constitutional defenses were ever addressed, considered, or settled.

Finally, without jurisdiction having been established, and with the appeals process incomplete, Judge DORSEY ordered the imprisonment of the appellant at FCI, Danbury on February 19, 1985 (See U.S.S.Ct. docket #84-1968), which order was executed on February 22, 1985.

All proceedings in the lower courts leading up to the "trial, conviction, and sentencing" by the district court, as well as the failure and refusal of the circuit court to entertain rehearing, are the subject of this appeal.

## REASONS WHY THE QUESTIONS PRESENTED REQUIRE PLENARY CONSIDERATION WITH BRIEFS ON THE MERITS AND ORAL ARGUMENT FOR THEIR RESOLUTION.

1. U.S.D. Judge PETER C. DORSEY had in

fact rendered a landmark decision in this case, in which he ruled that his court has jurisdiction, whether there is a law, or whether there is No Law. Judge DORSEY has created a new jurisdiction for the district courts, namely, that of NO LAW jurisdiction.(A-107 to A-116).

The circuit court has, by dismissing the appeals, affirmed that landmark decision. In the process, the lower courts have combined to "legislate" Title 26, U.S. Code; Internal Revenue Code of 1954, as amended, into law. This "judicial legislation" is contrary to the will and intent of the Congress, and the facts surrounding said legislation. For instance:

(A) That Title 26, U.S.C is not law, is clearly proclaimed in the U.S. Code; at the preface pages over the years; and at the notes following Title 1, U.S.C. §204.

(B) That the Internal Revenue Code and

Title 26, U.S.C. are IDENTICAL are evidenced in the notes following Title 1, U.S.C., §204.

(C) "The Internal Revenue Code of 1954, Pub. L. No. 591, ch. 736, 68a Stat. 1 (codified as amended in 26 U.S.C.)...[was] passed as [a] simple resolution and enacted as public law." The only way a Law can be made by Congress, requires it to originate as a BILL. (See Art. 1, Sec. 7, Cl. 1 & 2, Constitution of the U.S.A.).

(D) By whatever name or designation it may be called, the Internal Revenue Code of 1954, as amended, is not now and never has been LAW.

(E) Judge DORSEY's ruling is contrary to the law and the facts. It is this ruling, which was blindly given force and effect by the circuit court, that has resulted in the imprisonment of the appellant for violating a NON-LAW, which is

absurd.

No doubt, these important facts are what prompted President Reagan to recently proclaim that the income tax system is Un-American.

It is time for this Court to address this matter, in the interests of this Nation, as well as the appellant.

2. For whatever reason, or for no reason, the lower courts have ignored the Constitutional defenses of the appellant, in all of the proceedings, as if the Constitution of the United States of America does not exist. From a technical point of view, they may be correct IF they considered the appellant a FREEMAN subject only to the "Laws of Nature and of Nature's God". In that case the Constitution would not properly apply to the appellant. However, if that were their view, THEN the

appellant was not, and is not, subject to the jurisdiction of the United States, and the courts would have thrown out the "information" for Want of Jurisdiction, which they failed to do.

3. If the lower courts view the appellant as subject to the jurisdiction of the United States, which they seem to have done, THEN the appellant WAS, and IS, entitled to ALL of the rights, privileges, and immunities set forth in the Constitution of the United States of America, which they failed to provide.

CATCH-22: The United States could not lawfully imprison the appellant regardless of which viewpoint it adopted.

4. It is clear that some confusion has been created as to the jurisdiction and

functions of the lower courts. It is also clear that the appeals process has been perverted and/or the chain of appeals broken.

It is not the duty and responsibility of the appellant to straighten out the mess the courts are in today. This is something that the courts themselves have to do, or else lose all credibility and confidence.

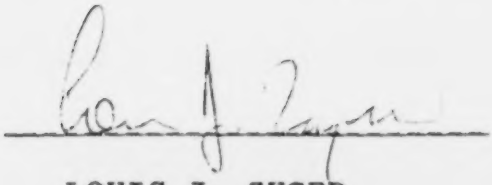
The appellant has raised three specific questions regarding this matter, at the beginning of this jurisdictional statement. They are Questions Presented #1, 2, and 3. This Court has the responsibility to answer those questions; for the good of the judicial system; for the good of the Nation; and for the good of the appellant.

5. Title 18, U.S.C. §4001 prohibits any citizen from being detained or imprisoned by the United States, except

pursuant to an Act of Congress. The United States has acted as if the appellant was a citizen of the United States, throughout the proceedings. Neither Title 26, U.S.C., nor the Internal Revenue Code of 1954 are Acts of Congress; nor do they authorize criminal jurisdiction of the district courts. The appellant is unlawfully imprisoned by the United States, and will remain so unless this Court acts to free him.

The issues raised are of major import; have never before been addressed; are within the appellate jurisdiction of this Court; and must, by Law (Art. III, Constitution of U.S.A.), be addressed by this Court.

Dated: July 3, 1985

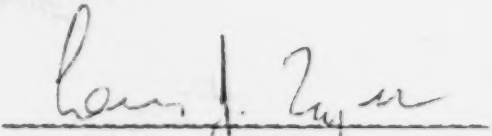


LOUIS J. ZUGER
P.O.W. #08133-014
PEMBROKE STATION CAMP
DANBURY, CT 06810

## CERTIFICATE OF SERVICE

The appellant certifies that he has served a copy of the above Jurisdictional Statement upon the Solicitor General, by mailing a copy of same, with postage prepaid, on the date of docketing, to:

SOLICITOR GENERAL
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530



LOUIS J. ZUGER

# APPENDIX

TABLE OF CONTENTS
APPENDIX TO JURISDICTIONAL STATEMENT


| | Page |
|---|---|
| Order of January 30, 1985, appealed herein | A-1 |
| Claim for Rehearing on Part 1 of C.A.2 "order" dated January 30, 1985 | A-5 |
| Claim for Rehearing on Part 2 of C.A.2 "order" dated January 30, 1985 | A-26 |
| Claim for Rehearing on Part 3 of C.A.2 "order" dated January 30, 1985 | A-46 |
| Claim for Rehearing on Part 4 of C.A.2 "order" dated January 30, 1985 | A-60 |
| Claim for Rehearing on Part 5 of C.A.2 "order" dated January 30, 1985 | A-75 |
| Claim for Rehearing on Part 6 of C.A.2 "order" dated January 30, 1985 | A-85 |
| Letter from AUSA HARTMERE to ELAINE B. GOLDSMITH, Clerk of C.A.2d., dated December 4, 1984 | A-96 |
| Letter to WILFRED FEINBERG dated July 20, 1984, signed by ZUGER, WHEELER, and HOLDERMAN re: due process | A-98 |
| Letter to FRANCIS J. LORSEN, Chief Deputy Clerk of the U.S. Supreme Court, dated January 4, 1985 | A-105 |

TABLE OF CONTENTS, CONTINUED
APPENDIX TO JURISDICTIONAL STATEMENT

Page

Ruling On Pending Motions,
dated 18 June, 1984, .
U.S.D.Judge PETER C. DORSEY,
U.S.D.C., Conn. #N-84-21 A-107 to A-116

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the thirtieth day of January, one thousand nine hundred and eighty-five.

Present: HONORABLE J. EDWARD LUMBARD,
HONORABLE JON O. NEWMAN
HONORABLE AMALYA L. KEARSE,
Circuit Judges.

- - - - - - - - - - - - - - - - - -

UNITED STATES OF AMERICA,
Appellee,

v. 84-1318

LOUIS J. ZUGER,
Defendant-Appellant.

- - - - - - - - - - - - - - - - - -

ORDER

Louis J. Zuger appeals from a judgment of the District Court for the District of Connecticut (Peter C. Dorsey, Judge) convicting him, after jury trial, on two counts of willful failure to file income tax returns. 26 U.S.C. § 7203 (1982). The appeal is completely frivolous. The undisputed evidence shows that Zuger received

sufficient income from his employer to require the filing of income tax returns and that his willful submission of fragmentary "protest" returns, lacking sufficient information to permit computation of gross income tax liability, failed to meet his statutory obligations.

1. The jurisdiction of the District Court to try offenses for violation of Title 26 of the United States Code is not impaired by the fact that Title 26 is not one of the titles of the Code to have been enacted into positive law. The Internal Revenue Code of 1954, which Zuger was convicted of violating, was duly enacted into law. Act of August 16, 1954, ch. 736, 68A Stat. 3. The Code is prima facie evidence of the contents of the statutes contained therein. Stephan V. United States, 319 U.S. 423, 426 (1943). Zuger

makes no claim that Title 26 of the United States Code differs from the Internal Revenue Code of 1954 as enacted into law and set forth in the statutes at large.

2. Zuger's prior attempt to take an interlocutory appeal for an order that was not final (which appeal was dismissed, No. 84-1213, June 28, 1984) did not divest the District Court of jurisdiction. See Cochran v. Birkel, 651 F.2d 1219 (6th Cir. 1981). cert. denied, 454 U.S. 1152 (1982); Leonhard v. United States, 633 F.2d 599, 610 (2d Cir. 1980), cert. denied, 451 U.S. 908 (1981); Hodgson v. Mahoney, 460 F.2d 326, 328 (1st Cir.), cert. denied, 409 U.S. 1039 (1972), 9 Moore's Federal Practice, ¶ 203.11 (2d ed. 1983).

3. Judge Dorsey properly denied motion to disqualify himself because his salary

was paid by the United States. See United States v. Will, 449 U.S. 200 (1980).

4. Zuger was not denied the effective assistance of counsel, having unequivocally elected to defend himself pro se. Faretta v. California, 422 U.S. 806, 835 n.46 (1975).

The judgment of the District Court is affirmed. The mandate shall issue forth.

N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

/s/ Lumbard
/s/ Newman
/s/ Kearse
Circuit Judges.

(JON)

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
Docket No. 84-1318

---

UNITED STATES OF AMERICA,
Appellee,

v.

LOUIS J. ZUGER,
Appellant.

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURTFOR THE DISTRICT OF CONNECTICUT

---

CLAIM FOR REHEARING ON PART 1
OF C.A.2 "ORDER" DATED JANUARY 30, 1985

---

DISCLAIMER

In order to adequately reply to the Statement mislabeled "order", and dated January 30, 1985, the Appellant cannot avoid addressing the "case law" and "rules" cited therein. In so doing, the Appellant does not in any way waive any of his rights, nor can he lawfully be subjected to "equity law". The Appellant intends to demonstrate the fallacy of Appellee's arguments and the entrapment inherent in

said "case law" and "equity". That the Appellant has rejected said "case law" and "equity" from the first day of this "criminal case" is clear in the record and the Appellant means to keep it that way. The Appellant will continue to rely upon genuine LAW, i.e. the Constitution of the United States and those laws enacted in Pursuance of said Constitution, which SUPPORT (and in turn are supported by) said Constitution.

## APPELLANT'S REPLY TO C.A.2's "ORDER" (PART 1)

FACT 1. The statement (order) of January 30, 1985 was the result of an improper hearing before a biased appeals panel. The bias was built into the hearing by the fact that JON O. NEWMAN was one of the three (3) judge panel.

FACT 2. On December 4, 1984, Assistant U.S. Attorney MICHAEL HARTMERE notified this Court that JON O. NEWMAN is a defendant in a lawsuit in which the appellant is one of the plaintiffs.(X1-A)

FACT 3. JON O. NEWMAN was required by law to disqualify himself from hearing this appeal. 28 U.S.C., §455(a), (b)(1), (b)(5).

FACT 4. The hasty statement of this Court dated January 30, 1985 as received by the appellant, which is mislabeled "ORDER" (X1-1,2), contains the following note after the signatures:

"N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court."

FACT 5. The statement is hasty as

evidenced by the fact that it was issued one (1) day after oral arguments were had. Obviously, this Court did not give any consideration to this appeal at all.

FACT 6. This "order" is mislabeled as evidenced by the fact that this Court, in its own note, refers to it as a statement, not an order, and also by the fact that said "order" is not a formal opinion of this Court. No actual order has issued from this court on this appeal.

FACT 7. Said "order" of January 30, 1984 essentially breaks down into six (6) parts, namely:

PART 1. The preface paragraph which erroneously states that the appellant was convicted of 2 counts of wilful failure to file income tax returns under 26 U.S.C. §7203 (1982), and that part of the

statement captioned #1., which seem to address the arguments that Title 26, U.S.C. is not law enacted by Congress.

PART 2. Arguments that the district court lacked jurisdiction because of the pendency of an interlocutory appeal.

PART 3. That Judge Dorsey properly failed to disqualify himself from this case.

PART 4. That effective assistance of counsel was not denied to the appellant.

PART 5. All of the appellants arguments were totally ignored.

PART 6. "The judgment of the District Court is affirmed. The mandate shall issue forthwith."

FACT 8. This is a claim for a rehearing, oral arguments, and a formal opinion by this Court on PART 1 of the statement (order) of January 30, 1984. Said claim is made as a matter of right, and only for the convenience of this Court does the Appellant refer to Rule 40 (a), (b) of the Rules of Appellate Procedure (which rules are not law).

FACT 9. PART 1 of the statement (order) of this Court dated January 30, 1985 is misleading because it states:

"1. The jurisdiction of the District Court to try offenses for violation of Title 26 of the United States Code is not impaired by the fact that Title 26 is not one of the titles of the Code to have been enacted as such into positive law. The Internal Revenue Code of 1954, which Zuger was convicted of violating, was duly

enacted into law. Act of August 16, 1954, ch. 736, 68a Stat. 3. The Code is prima facie evidence of the content of the statutes contained therein. Stephan v. United States, 319 U.S. 423, 426 (1943). Zuger makes no claim that Title 26 of the United States Code differs from the Internal Revenue Code of 1954 as enacted into law and set forth in the Statutes at large." (X1-1, 2).

FACT 10. The appellant was not charged with violating the Internal Revenue Code of 1954, and was therefore NOT CONVICTED OF VIOLATING THE INTERNAL REVENUE CODE OF 1954.

FACT 11. This Court has not addressed any of the appellant's arguments as set forth in the record on appeal, or in the interlocutory appeal in United States v.

Zuger, C.A.2 Criminal Docket No. 84-1213. That this Court has not issued any order is evidenced in the note at the bottom of said "order" (X1-2) of January 30, 1985.

FACT 12. This Court cited a case in support of its statement dated January 30, 1985, namely, Stephan v. United States (1943). The case does not address the issues raised in this appeal. In addition, the case is not law.

FACT 13. The Stephan v. United States case is an inappropriate case to cite because it predates the change of purpose of the U.S. Code, and because the case is not law.

FACT 14. At the time the Stephan v. United States case was decided (1943), the original plan and purpose of the U.S. Code was still in effect. The plan and purpose

of the U.S. Code at the time of the Stephan court was to furnish prima facie evidence of the laws of the United States.

FACT 15. Sometime in 1946, after the Stephan court, the Congress decided to change the plan and purpose of the U.S. Code, so that it could furnish legal evidence of the laws of the United States. In order to effect that change in purpose, the Congress proclaimed that many of the general and permanent laws and ALL 50 titles of the Code were "inconsistent, redundant, archaic and obsolete" (See A-14 in Appendix to Appellant's Brief). The precise wording is contained in the Preface to the 1946 Edition of the U.S. Code, as follows:

"Inasmuch as many of the general and permanent laws which are required to be

incorporated in this Code are inconsistent, redundant, archaic and obsolete, there has been inaugurated a comprehensive project of revising and enacting the Code, consisting of 50 titles, into positive law, title by title. In furtherance of this plan bills have been introduced and are now pending before the Congress to revise, codify and enact into positive law Titles 1, 4, 6, 9, 17, 18, and 28. In addition, bills relating to Titles 38 and 46 are also being prepared for introduction at an early date. When this work is completed all the titles of the Code will be legal evidence of the general and permanent law and recourse to the numerous volumes of the Statutes at Large for this purpose will be unnecessary." (emphasis added)

FACT 16. Since 1946, the Congress has been at work on the project of codifying and

enacting into positive law, various titles of the U.S. Code. At no time has Title 26 of the United States Code ever been enacted into positive law. As a matter of fact, this Court has admitted "the fact that Title 26 is not one of the titles of the Code to have been enacted as such into positive law.", in its statement of January 30, 1985.(Appellant's Brief A-14, A-15).

FACT 17. In light of the foregoing, the case of Stephan v. United States is inappropriate due to the change of the purpose of the Code following the Stephan court. Reference to the "statutes at large" as it appears in the statement of this Court dated January 18, 1985, is appropriate. For example:

"Statutes at large. An official compilation of the acts and resolutions of

each session of Congress published by the Office of the Federal Register in the National Archives and Records Service. It consists of two parts, the first comprising public acts and joint resolutions, the second, private acts and joint resolutions, concurrent resolutions, treatises, proposed and ratified amendments to Constitution, and Presidential proclamations. The arrangement is currently by Public Law number, and by chapter number in pre-1951 volumes. This is the official print of the law for citation purposes where titles of the United States Code have not been enacted into positive law." Black's Law Dictionary, 5th Ed.(1979) (emphasis added).

FACT 18. The appellee has already admitted that Title 26 of the United States Code has not been enacted into "positive" law. There is no way of getting around the fact that

Title 26 of the United States Code IS NOT LAW.

FACT 19. The appellee's agents, including this Court, should certainly know this important fact (26 U.S.C. IS NOT LAW), since the appellant has consistently pointed it out to the appellee, beginning with the appellant's Special Appearance (Appellant's Brief, A-5 to A-19).

FACT 20. The "information" was based upon improper citations as evidenced by the fact that said information did not cite the Statutes at Large. As set forth in the above information contained in Black's, the Statutes at Large "is the official print of the law for citation purposes where titles of the United States Code have not been enacted into positive law."

THERE IS NO CITATION OF THE STATUTES AT LARGE CONTAINED IN ANY OF THE PAPERS SUBMITTED BY THE APPELLEE IN EITHER THE LOWER COURT OR THIS COURT.

FACT 21. THE "INFORMATION" IS A FRAUD, AS ALREADY STATED BY THE APPELLANT THROUGHOUT ALL PROCEEDINGS IN THE LOWER COURT AND THIS COURT.

FACT 22. By updating the Stephan court's decision of 1943 to at least 1979 through Black's law Dictionary, application of Stephan v. United States would have required the U.S.Attorney to have cited violations of the Statutes at Large, which the U.S. Attorney failed to do.

FACT 23. If this Court wishes to rely upon Stephan v. United States, then it must

immediately reverse and remand for the failure of the appellee to cite the Statutes at Large.

FACT 24. Actually, it is not necessary to get involved with "case law" like the Stephan case, since the Congress has been very explicit regarding the Internal Revenue Code and Title 26 of the United States Code citations. Congress clearly expressed its will and intent as to how the "Internal Revenue laws" were to be cited, in Title 26, U.S.Code, 1982 edition, at page 23, as follows:

"(a) Citation
(1) The provisions of this Act set forth under the heading "Internal Revenue Title" may be cited as the "Internal Revenue Code of 1954".
(2) The Internal Revenue Code enacted on February 10, 1939, as amended, may be cited as the "Internal Revenue Code of 1939"."

FACT 25. The only way that the "laws"

contained in Title 26- Internal Revenue Code may be cited, according to the Congress that wrote said laws, is written in said law itself, as set forth under "CITATION" abovementioned. There is no other lawful way of citing said law. The intent of Congress is the law. The appellee did not properly cite the law to the lower court. The U.S. Attorney did not furnish a true bill of information. According to the clear will and intent of the Congress, this Court has no alternative. It must reverse and remand.

FACT 26. The appellee had chosen to ignore the will and intent of the Congress of the United States, and has attempted to "legislate" Title 26 of the United States Code into law by "executive order" and "judicial fiat". The appellant has repeatedly pointed out this important fact,

beginning with the appellant's Special Appearance (Appellant's Brief, A-5 to A-19).

FACT 27. The abovementioned facts were deliberately withheld from the trial jury by the prosecutor and the judge of the lower court. The trial jury did not have all of the facts at its disposal when it rendered its verdict of conviction.

FACT 28. Both the lower court and this Court have once again attempted to duck the issue, as evidenced by the statement, erroneously labeled "order" by this Court, and dated January 30, 1985. <u>There is no formal order in this or any other court which has addressed and settled the lack of jurisdiction issue</u>.

FACT 29. The lower court never had

jurisdiction over the person or the subject matter herein appealed. The conviction was and is a fraud. It must be reversed and remanded.

FACT 30. Numerous crimes have been committed by the appellee's agents against the appellant, who is a sovereign citizen. This (appellee's) Court does not have clean hands in this matter. On July 20, 1984, appellant Zuger, together with appellants ALTON W. WHEELER and CALVIN HOLDERMAN, put Chief Judge FEINBERG and Associate Justice THURGOOD MARSHALL on notice of the denial of our due process rights by this Court (X1-3 to X1-6).

FACT 31. The appellant sent copies of his reply brief to the Attorney General of the U.S.; Solicitor General of the U.S.; Associate Justice of the Supreme Court

THURGOOD MARSHALL, for the Second Circuit Court of Appeals; and Mr. WILLIAM E. FOLEY, Director, Administrative Office of the U.S. Courts, pursuant to Title 18, U.S.C., §3 and §4, on December 7, 1984 (See X1-7 to X1-11). This Court has been formally put on notice pursuant to said Title 18, U.S.C., §3 and §4 of the crimes, including denial of due process, committed against the appellant by the agents of the appellee, as set forth in the papers filed in this appeal and which form the complete record in this case. Said record is incorporated by reference with the same force and effect as if fully stated and alleged herein.

FACT 31. Title 18, U.S.C., §4001 prohibits the trial, conviction, and sentence imposed herein, since Title 26, U.S.C. is NOT AN ACT OF CONGRESS. Congress mandates in Title

18, U.S.C., §4001 (a) that:

> "No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress."

Accordingly, the appellant claims and reserves the right to rehearing, oral arguments, and a formal opinion by this Court on ALL of his arguments regarding the jurisdictional challenges already made, in order to finally address and settle the questions of jurisdiction, which questions were in no way addressed or settled in the statement (order) of January 30, 1985.

All rights reserved forever.

Dated: February 7, 1985

/S/

LOUIS J. ZUGER
DEPENDANT-APPELLANT
WILKES ROAD
DANBURY, CT 06811

CERTIFICATION

This is to certify that a true and correct copy of the foregoing Claim For Hearing On Part 1 Of C.A.2 "Order" dated January 30, 1985 was mailed, postage prepaid, on February 8, 1985, to:

ALAN H. NEVAS
UNITED STATES ATTORNEY
FOR THE DISTRICT OF CONNECTICUT

MICHAEL HARTMERE
ASSISTANT UNITED STATES ATTORNEY
P.O. BOX 1824
NEW HAVEN, CONNECTICUT 06508

MR. WILLIAM E. FOLEY, Director
Administrative Office Of The U.S. Courts
Washington, DC 20544

Attorney General of the United States
United States Department of Justice
Criminal Division
Washington, DC 20530

Solicitor General of the United States
United States Department of Justice
Washington, DC 20530

Associate Justice of the Supreme Court
THURGOOD MARSHALL, For The Second Circuit Court of Appeals
United States Supreme Court House
Washington, DC 20543

/S/
LOUIS J. ZUGER.

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
Docket No. 84-1318

---

UNITED STATES OF AMERICA,
Appellee,

v.

LOUIS J. ZUGER,
Appellant.

---

ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF CONNECTICUT

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CLAIM FOR REHEARING ON PART 2
OF C.A.2 "ORDER" DATED JANUARY 30, 1985

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## DISCLAIMER

In order to adequately reply to the Statement mislabeled "order", and dated January 30, 1985, the Appellant cannot avoid addressing the "case law" and "rules" cited therein. In so doing, the Appellant does not in any way waive any of his rights, nor can he lawfully be subjected to "equity law". The Appellant intends to demonstrate the fallacy of Appellee's arguments and the entrapment inherent in

said "case law" and "equity". That the Appellant has rejected said "case law" and "equity" from the first day of this "criminal case" is clear in the record and the Appellant means to keep it that way. The Appellant will continue to rely upon genuine LAW, i.e. the Constitution of the United States and those laws enacted in Pursuance of said Constitution, which SUPPORT (and in turn are supported by) said Constitution.

## APPELLANT'S REPLY TO C.A.2's "ORDER" (PART 2)

FACT 1. The statement (order) of January 30, 1985 was the result of an improper hearing before a biased appeals panel. The bias was built into the hearing by the fact that JON O. NEWMAN was one of the three (3) judge panel.

FACT 2. On December 4, 1984, Assistant U.S. Attorney MICHAEL HARTMERE notified this Court that JON O. NEWMAN is a defendant in a lawsuit in which the appellant is one of the plaintiffs.(X2-A)

FACT 3. JON O. NEWMAN was required by law to disqualify himself from hearing this appeal. 28 U.S.C., §455(a), (b)(1), (b)(5).

FACT 4. The hasty statement of this Court dated January 30, 1985 as received by the appellant, which is mislabeled "ORDER" (X2-1,2), contains the following note after the signatures:

"N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court."

FACT 5. That the statement is hasty is evidenced by the fact that it was issued one (1) day after oral arguments were had. Obviously, this Court did not give any consideration to this appeal at all.

FACT 6. That this "order" is mislabeled is evidenced by the fact that this Court, in its own note, refers to it as a statement, not an order, and also by the fact that said "order" is not a formal opinion of this Court. No actual order has issued from this court on this appeal.

FACT 7. Said "order" of January 30, 1984 essentially breaks down into six (6) parts, namely:

PART 1. The preface paragraph which erroneously states that the appellant was convicted of 2 counts of wilful failure to

file income tax returns under 26 U.S.C. §7203 (1982), and that part of the statement captioned #1., which seem to address the arguments that Title 26, U.S.C. is not law enacted by Congress.

PART 2. Arguments that the district court lacked jurisdiction because of the pendency of an interlocutory appeal.

PART 3. That Judge Dorsey properly failed to disqualify himself from this case.

PART 4. That effective assistance of counsel was not denied to the appellant.

PART 5. All of the appellants arguments were totally ignored.

PART 6. "The judgment of the District

Court is affirmed. The mandate shall issue forthwith."

FACT 8. This is a claim for a rehearing, oral arguments, and a formal opinion by this Court on PART 2 of the statement (order) of January 30, 1984. Said claim is made as a matter of right, and only for the convenience of this Court does the Appellant refer to Rule 40 (a), (b) of the Rules of Appellate Procedure (which rules are not law).

FACT 9. PART 2 of the statement (order) of this Court dated January 30, 1985 is misleading because it states:

"2. Zuger's prior attempt to take an interlocutory appeal from an order that was not final (which appeal was dismissed. No. 84-1213, June 28, 1984) did not divest the

District Court of jurisdiction. See Cochran v. Birkel, 651 F.2d 1219 (6th Cir. 1981), cert. denied, 454 U.S. 1152 (1982); Leonhard v. United States, 633 F.2d 599, 610 (2d Cir. 1980), cert. denied, 451 U.S. 908 (1981); Hodgson v. Mahoney, 460 F2d 326, 328 (1st Cir.), cert. denied, 409 U.S. 1039 (1972); Moore's Federal Practice ¶ 203.11 (2d ed. 1983)." (X1-2).

FACT 10. This Court has not addressed any of the appellant's arguments as set forth in the record on appeal, or in the interlocutory appeal in United States v. Zuger, C.A.2 Criminal Docket No. 84-1213. That this Court has not issued any order is evidenced in the note at the bottom of said "order" (X1-2) of January 30, 1985.

FACT 11. It has been a longstanding practice in the courts to rely upon 28

U.S.C. §1291 and §1292 for dismissing interlocutory appeals. This was, and is now, an especially lawless practice in denying due process in criminal cases. This case is supposed to be a Criminal case, and bears a Criminal docket number in the lower court and this court.

FACT 12. A reading of 28 U.S.C. §1291 and §1292 clearly indicates that these sections refer only to Civil cases. Said sections DO NOT APPLY TO CRIMINAL CASES. This is a matter of fact, as well as a matter of law.

FACT 13. Under the caption "Final decision rule", even equity oriented Black's Law Dictionary, 5th Edition, has the following information:

"Appeals to federal courts of appeals from U.S. district courts must be from

"final decisions" of district courts. 28 U.S.C.A. §1291. In other words, the courts of appeals lack jurisdiction over nonfinal judgments. The object of this restriction is to prevent piecemeal litigation which would otherwise result from the use of interlocutory appeals. See, however, Interlocutory Appeals Act."

(emphasis added)

FACT 14. This definition, is misleading because it quotes United States Code Annotated, which is a privately published code, and is not the official U.S.Code.

FACT 15. "Interlocutory Appeals Act. Federal Act grants discretion to the courts of appeals to review any interlocutory order whatever in a CIVIL case if the trial (i.e. federal district court) judge, in making the order, has stated in writing

that the order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an intermediate appeal from the order may materially advance the ultimate termination of litigation. 28 U.S.C. §1292(b)." Black's Law Dictionary. 5th Ed. (emphasis added).

FACT 16. The Law and the legal profession currently accept the fact that the "final decision rule" does not apply to CRIMINAL cases.

FACT 17. All three (3) cases cited by this Court, namely:

Cochran v. Birkel

Leonhard v. United States

Hodgson v. Mahoney

ARE CIVIL CASES, AND THIS IS A CRIMINAL APPEAL IN A DE FACTO CRIMINAL CASE.

FACT 18. The appellee, the appellee's lower court and this Court deliberately misapplied Civil law to a Criminal case, in contravention of the law.

FACT 19. Rule 4, Rules of Appellate Procedure is titled "Appeals as of right."

FACT 20. Rule 4(b), Rules of Appellate Procedure is titled "Appeals in criminal cases", and reads as follows:

"A notice of appeal filed after the announcement of a decision, sentence, or order but filed before entry of the judgment or order shall be treated as filed after such entry and on the day thereof." (emphasis added).

FACT 21. There is no limitation on the type of decisions, judgments, orders, or

sentences that are appealable as of right, assuming that Rule 4 is valid because it conforms to valid law.

FACT 22. Black's Law Dictionary, 5th Edition at pages 366 and 367 gives the definitions of "decision". At pages 755, 756, 757 and 758, the definitions of "judgment" are given, together with the various types of judgments. The definitions of "order" and the various types of orders are given at pages 988 and 989. The definition of "sentence" and the various types of sentences are given at pages 1222 and 1223 of said Black's. Rule 4(b) is written so broadly that it includes virtually ALL of the definitions of "decision", "order", "judgment", and "sentence" that apply to criminal matters.

FACT 23. The "final decision rule" defined

in Black's at page 567, applies exclusively to CIVIL matters, and 28 USCA §1291 supports this important fact.

FACT 24. The "Interlocutory Appeals Act" defined in Black's at page 731, applies exclusively to CIVIL matters, and 28 USC § 1292(b) supports this important fact.

NOTE: Black's Law Dictionary is quoted herein only because it is used by the law profession as its bible. Its use herein does not imply acceptance of the many inconsistent, contradictory, obtuse and often unlawful definitions found in Black's Law Dictionary.

FACT 25. It is clear that any statutory restrictions imposed on the appeals court regarding interlocutory appeals applies exclusively to CIVIL cases, if such

restrictions are valid at all. No such statutory restrictions on the jurisdiction of the appeals court to hear appeals from non-final orders, judgments, decisions, or sentences in CRIMINAL cases have been imposed on the appeals court.

FACT 26. Any "motion to dismiss" any criminal appeal on the basis of an alleged "no final appealable order", or variation on that theme, is not only improper but a lawless act on the part of the moving party, designed to criminally deny due process of law to the appellant.

"No person shall...be deprived of life, liberty, or property, without due process of law;" Article of Amendment V to the Constitution of the United States of America.

FACT 27. The appeals court has an obligation to instruct that the party claiming dismissal of interlocutory appeals

under Rule 4 be brought before a Grand Jury for probable indictment.

FACT 28. Due process requires that jurisdiction be established before any case can proceed in any court. This is especially significant where jurisdictional challenges are made and ignored by the lower court; this is when an interlocutory appeal becomes VITAL to the protection of due process rights.

FACT 29. There is no basis for dismissal of any CRIMINAL appeal to be found in Rule 4(b) F.R.App.P. or in 28 USC § 1291 or 1292.

FACT 30. The abovementioned arguments have never been addressed or settled by this or any other court. Said arguments were essentially made in U.S.A. v. Zuger, C.A.2

Criminal Docket No. 84-1213, which was an interlocutory appeal challenging the jurisdiction of the lower court in this matter. U.S.A. v. Zuger, C.A.2 Criminal Docket No. 84-1213 is incorporated by reference with the same force and effect as if fully stated and alleged herein. (See Appellant's Response To Appellee's Motion To Dismiss The Appeals dated June 20, 1984, attached hereto and made a part hereof as X2-3 to X2-5).

FACT 31. It is clear that both the lower court and this Court have once again attempted to duck the issue, as evidenced by the statement, erroneously labeled "order" by this Court, and dated January 30, 1985. There is no formal order in this or any other court which has addressed and settled the interlocutory appeal issue.

FACT 32. The lower court never had jurisdiction over the person or the subject matter herein appealed. The conviction was and is a fraud. IT MUST BE REVERSED AND REMANDED.

FACT 33. Numerous crimes have been committed by the appellee's agents against the appellant, who is a sovereign citizen. This (appellee's) Court does not have clean hands in this matter. On July 20, 1984, appellant Zuger, together with appellants ALTON W. WHEELER and CALVIN HOLDERMAN, put Chief Judge FEINBERG and Associate Justice THURGOOD MARSHALL on notice of the denial of our due process rights by this Court (X2-6 to X2-9).

FACT 34. The appellant sent copies of his reply brief to the Attorney General of the U.S.; Solicitor General of the U.S.;

Associate Justice of the Supreme Court THURGOOD MARSHALL, for the Second Circuit Court of Appeals; and Mr. WILLIAM E. FOLEY, Director, Administrative Office of the U.S. Courts, pursuant to Title 18, U.S.C., §3 and §4, on December 21, 1984 and January 4, 1985 (See X2-10,to 14). This Court has been formally put on notice pursuant to said Title 18, U.S.C., §3 and §4 of the crimes, including denial of due process, committed against the appellant by the agents of the appellee, as set forth in the papers filed in this appeal and which form the complete record in this case. Said record is incorporated by reference with the same force and effect as if fully stated and alleged herein.

FACT 35. Title 18, U.S.C., §4001 prohibits the trial, conviction, and sentence imposed herein, since Title 26, U.S.C. is NOT AN

ACT OF CONGRESS. Congress mandates in Title 18, U.S.C., §4001 (a) that:

> "No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress."

Accordingly, the appellant claims and reserves the right to hearing, oral arguments, and a formal opinion by this Court on ALL of his arguments AFTER this Court finally addresses and settles the arguments set forth concerning PART 1, and this PART 2 of said statement (order) of January 30, 1985.

All rights reserved forever.

Dated: February 7, 1985

/S/

LOUIS J. ZUGER
DEFENDANT-APPELLANT
WILKES ROAD
DANBURY, CT 06811

CERTIFICATION

This is to certify that a true and correct copy of the foregoing Claim For Hearing On Part 2 Of C.A.2 "Order" dated January 30, 1985 was mailed, postage prepaid, on February 11, 1985, to:

ALAN H. NEVAS
UNITED STATES ATTORNEY
FOR THE DISTRICT OF CONNECTICUT

MICHAEL HARTMERE
ASSISTANT UNITED STATES ATTORNEY
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MR. WILLIAM E. FOLEY, Director
Administrative Office Of The U.S. Courts
Washington, DC 20544

Attorney General of the United States
United States Department of Justice
Criminal Division
Washington, DC 20530

Solicitor General of the United States
United States Department of Justice
Washington, DC 20530

Associate Justice of the Supreme Court
THURGOOD MARSHALL, For The Second Circuit Court of Appeals
United States Supreme Court House
Washington, DC 20543

/S/
LOUIS J. ZUGER.

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
Docket No. 84-1318

---

UNITED STATES OF AMERICA,
Appellee,

v.

LOUIS J. ZUGER,
Appellant.

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

---

CLAIM FOR HEARING ON PART 3
OF C.A.2 "ORDER" DATED JANUARY 30, 1985

---

DISCLAIMER

In order to adequately reply to the Statement mislabeled "order", and dated January 30, 1985, the Appellant cannot avoid addressing the "case law" and "rules" cited therein. In so doing, the Appellant does not in any way waive any of his rights, nor can he lawfully be subjected to "equity law". The Appellant intends to demonstrate the fallacy of Appellee's arguments and the entrapment inherent in

said "case law" and "equity". That the Appellant has rejected said "case law" and "equity" from the first day of this "criminal case" is clear in the record and the Appellant means to keep it that way. The Appellant will continue to rely upon genuine LAW, i.e. the Constitution of the United States and those laws enacted in Pursuance of said Constitution, which SUPPORT (and in turn are supported by) said Constitution.

## APPELLANT'S REPLY TO C.A.2's "ORDER" (PART 3)

FACT 1. The statement (order) of January 30, 1985 was the result of an improper hearing before a biased appeals panel. The bias was built into the hearing by the fact that JON O. NEWMAN was one of the three (3) judge panel.

FACT 2. On December 4, 1984, Assistant U.S. Attorney MICHAEL HARTMERE notified this Court that JON O. NEWMAN is a defendant in a lawsuit in which the appellant is one of the plaintiffs.(X3-A)

FACT 3. JON O. NEWMAN was required by law to disqualify himself from hearing this appeal. 28 U.S.C., §455(a), (b)(1), (b)(5).

FACT 4. The hasty statement of this Court dated January 30, 1985 as received by the appellant, which is mislabeled "ORDER" (X3-1,2), contains the following note after the signatures:

"N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

FACT 5. That the statement is hasty is evidenced by the fact that it was issued one (1) day after oral arguments were had. Obviously, this Court did not give any consideration to this appeal at all.

FACT 6. That this "order" is mislabeled is evidenced by the fact that this Court, in its own note, refers to it as a statement, not an order, and also by the fact that said "order" is not a formal opinion of this Court. No actual order has issued from this court on this appeal.

FACT 7. Said "order" of January 30, 1984 essentially breaks down into six (6) parts, namely:

PART 1. The preface paragraph which erroneously states that the appellant was convicted of 2 counts of wilful failure to

file income tax returns under 26 U.S.C. §7203 (1982), and that part of the statement captioned #1., which seem to address the arguments that Title 26, U.S.C. is not law enacted by Congress.

PART 2. Arguments that the district court lacked jurisdiction because of the pendency of an interlocutory appeal.

PART 3. That Judge Dorsey properly failed to disqualify himself from this case.

PART 4. That effective assistance of counsel was not denied to the appellant.

PART 5. All of the appellants arguments were totally ignored.

PART 6. "The judgment of the District

Court is affirmed. The mandate shall issue forthwith."

FACT 8. This is a claim for a hearing, oral arguments, and a formal opinion by this Court on PART 3 of the statement (order) of January 30, 1984. Said claim is made as a matter of right. Only for the convenience of this Court does the Appellant refer to Rule 40 (a), (b) of the Rules of Appellate Procedure (which rules are not law).

FACT 9. PART 3 of the statement (order) of this Court dated January 30, 1985 is misleading because it states:

"3. Judge Dorsey properly denied the motion to disqualify himself because his salary was paid by the United States. See United States v. Will, 449 U.S. 200

(1980)."

FACT 10. Judge PETER C. DORSEY and Judge JON O. NEWMAN were required by law to disqualify themselves from hearing this case. 28 U.S.C., §455(a), (b)(1), (b)(5). Both men are defendants in lawsuits in which the appellant is a plaintiff. Reference X3-A attached. (See also: Appellant's Reply Brief pages 12 to 17, as well as the full record on appeal).

FACT 11. Judge Dorsey was required to disqualify himself as set forth in Appendix to Appellant's Brief A-10, and A-11.

FACT 12. The case of United States v. Will is inappropriate to cite, because it is not Law.

FACT 13. The case of United States v.

Will is inappropriate to cite, because it is a CIVIL case, and this is a CRIMINAL APPEAL in a DE FACTO CRIMINAL CASE.

FACT 14. The ancient "Rule of Necessity" referred to by the Will court, traces it ancestry to England of 1430 (p. 213). It has no application to either Judge Dorsey or Judge Newman because:

a. The Declaration of Independence (1776) severed the King's sovereignty, as well as his "courts".

b. The United States courts are established under Article III of the Constitution of the United States of America, and ALL public Officers are bound by Oath or Affirmation to SUPPORT said Constitution.

c. There was no "Necessity" involved. No violation of law by the appellant was committed or alleged to have been committed by the appellee, which could possibly have created the "Necessity" or the application of said "Rule of Necessity" to Judge Dorsey's sitting in this case. (NO JURISDICTION, See Special Appearance #1 in Appendix to Appellant's Brief, A-5 to A-19)

d. There is no lawful reason why only State licensed attorneys can be judges. This is condition of conflict created by the legal profession, and not by the appellant. The appellant is a victim of that conflict. (Reference: Appellant's Reply Brief, pages 17 to 23, and full record on appeal).

e. An unbiased judge is required to hear this case. A lawful basis for

appointing one exists, as provided in the Constitution of the United States of America at:

Article II, Section 2, Clause 2.
Article VI, Clause 2 and 3.

FACT 15. It is clear that both the lower court and this Court have once again attempted to duck the issue, as evidenced by the statement, erroneously labeled "order" by this Court, and dated January 30, 1985. There is no formal order in this or any other court which has addressed and settled the interlocutory appeal issue.

FACT 16. The lower court never had jurisdiction over the person or the subject matter herein appealed. The conviction was and is a fraud. IT MUST BE REVERSED AND REMANDED.

FACT 17. Numerous crimes have been committed by the appellee's agents against the appellant, who is a sovereign citizen. This (appellee's) Court does not have clean hands in this matter. On July 20, 1984, appellant Zuger, together with appellants ALTON W. WHEELER and CALVIN HOLDERMAN, put Chief Judge FEINBERG and Associate Justice THURGOOD MARSHALL on notice of the denial of our due process rights by this Court (X3-3 to X3-6).

FACT 18. The appellant sent copies of his reply brief to the Attorney General of the U.S.; Solicitor General of the U.S.; Associate Justice of the Supreme Court THURGOOD MARSHALL, for the Second Circuit Court of Appeals; and Mr. WILLIAM E. FOLEY, Director, Administrative Office of the U.S. Courts, pursuant to Title 18, U.S.C., §3

and §4, on December 21, 1984 and January 4, 1985 (See X3-7,to X3-11). This Court is formally put on notice pursuant to said Title 18, U.S.C., §3 and §4 of the crimes, including denial of due process, committed against the appellant by the agents of the appellee, as set forth in the papers filed in this appeal and which form the complete record in this case. Said record is incorporated by reference with the same force and effect as if fully stated and alleged herein.

FACT 19. Title 18, U.S.C., §4001 prohibits the trial, conviction, and sentence imposed herein, since Title 26, U.S.C. is NOT AN ACT OF CONGRESS. Congress mandates in Title 18, U.S.C., §4001 (a) that:

> "No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress."

Accordingly, the appellant claims and reserves the right to hearing, oral arguments, and a formal opinion by this Court on ALL of his OTHER arguments AFTER this Court finally addresses and settles the arguments set forth concerning PART 1, PART 2, and this PART 3 of said statement (order) of January 30, 1985.

All rights reserved forever.

Dated: February 7, 1985

/S/

LOUIS J. ZUGER
DEFENDANT-APPELLANT
WILKES ROAD
DANBURY, CT 06811

CERTIFICATION

This is to certify that a true and correct copy of the foregoing Claim For Hearing On Part 3 Of C.A.2 "Order" dated January 30, 1985 was mailed, postage prepaid, on February 11, 1985, to:

ALAN H. NEVAS
UNITED STATES ATTORNEY
FOR THE DISTRICT OF CONNECTICUT

MICHAEL HARTMERE
ASSISTANT UNITED STATES ATTORNEY
P.O. BOX 1824
NEW HAVEN, CONNECTICUT 06508

MR. WILLIAM E. FOLEY, Director
Administrative Office Of The U.S. Courts
Washington, DC 20544

Attorney General of the United States
United States Department of Justice
Criminal Division
Washington, DC 20530

Solicitor General of the United States
United States Department of Justice
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Associate Justice of the Supreme Court
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/S/
LOUIS J. ZUGER.

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
Docket No. 84-1318

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UNITED STATES OF AMERICA,
Appellee,

v.

LOUIS J. ZUGER,
Appellant.

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

---

CLAIM FOR HEARING ON PART 4
OF C.A.2 "ORDER" DATED JANUARY 30, 1985

---

DISCLAIMER

In order to adequately reply to the Statement mislabeled "order", and dated January 30, 1985, the Appellant cannot avoid addressing the "case law" and "rules" cited therein. In so doing, the Appellant does not in any way waive any of his rights, nor can he lawfully be subjected to "equity law". The Appellant intends to demonstrate the fallacy of Appellee's arguments and the entrapment inherent in

said "case law" and "equity". That the Appellant has rejected said "case law" and "equity" from the first day of this "criminal case" is clear in the record and the Appellant means to keep it that way. The Appellant will continue to rely upon genuine LAW, i.e. the Constitution of the United States and those laws enacted in Pursuance of said Constitution, which SUPPORT (and in turn are supported by) said Constitution.

APPELLANT'S REPLY TO C.A.2's "ORDER (PART 4)

FACT 1. The statement (order) of January 30, 1985 was the result of an improper hearing before a biased appeals panel. The bias was built into the hearing by the fact that JON O. NEWMAN was one of the three (3) judge panel.

FACT 2. On December 4, 1984, Assistant U.S. Attorney MICHAEL HARTMERE notified this Court that JON O. NEWMAN is a defendant in a lawsuit in which the appellant is one of the plaintiffs.(X4-A)

FACT 3. JON O. NEWMAN was required by law to disqualify himself from hearing this appeal. 28 U.S.C., §455(a), (b)(1), (b)(5).

FACT 4. The hasty statement of this Court dated January 30, 1985 as received by the appellant, which is mislabeled "ORDER" (X4-1, 2), contains the following note after the signatures:

"N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court."

FACT 5. That the statement is hasty is evidenced by the fact that it was issued one (1) day after oral arguments were had. Obviously, this Court did not give any consideration to this appeal at all.

FACT 6. That this "order" is mislabeled is evidenced by the fact that this Court, in its own note, refers to it as a statement, not an order, and also by the fact that said "order" is not a formal opinion of this Court. No actual order has issued from this court on this appeal.

FACT 7. Said "order" of January 30, 1984 essentially breaks down into six (6) parts, namely:

PART 1. The preface paragraph which erroneously states that the appellant was convicted of 2 counts of wilful failure to

file income tax returns under 26 U.S.C. §7203 (1982), and that part of the statement captioned #1., which seem to address the arguments that Title 26, U.S.C. is not law enacted by Congress.

PART 2. Arguments that the district court lacked jurisdiction because of the pendency of an interlocutory appeal.

PART 3. That Judge Dorsey properly failed to disqualify himself from this case.

PART 4. That effective assistance of counsel was not denied to the appellant.

PART 5. All of the appellants arguments were totally ignored.

PART 6. "The judgment of the District

Court is affirmed. The mandate shall issue forthwith."

FACT 8. This is a claim for a hearing, oral arguments, and a formal opinion by this Court on PART 4 of the statement (order) of January 30, 1984. Said claim is made as a matter of right. Only for the convenience of this Court does the Appellant refer to Rule 40 (a), (b) of the Rules of Appellate Procedure (which rules are not law).

FACT 9. PART 4 of the statement (order) of this Court dated January 30, 1985 is misleading because it states:

"4. Zuger was not denied the effective assistance of counsel, having unequivocally elected to defend himself pro se. Farretta v. California, 422 U.S. 806, 835 n. 46

(1975)."

FACT 10. The case of Farretta v. California is inappropriate to cite, because it is not Law.

FACT 11. The case of Farretta v. California is inappropriate to cite, because it is a State case, and this is a "Federal" CRIMINAL APPEAL in a DE FACTO CRIMINAL CASE.

FACT 12. The case of Farretta v. California is inappropriate to cite against the appellant herein, because the Farretta court actually supports the appellant's position, as follows:

> "MR. JUSTICE STEWART delivered the opinion of the Court."
> "...Stated another way, the question is whether a State may constitutionally hale a person into its criminal courts and there force a lawyer upon him, even when he

insists that he wants to conduct his own defense. It is not an easy question, but we have concluded that a State may not constitutionally do so." (p. 807)

FACT 13. It follows from Farretta that the United States courts cannot hale a person into its criminal courts and force a State licensed lawyer upon him.

FACT 14. It is true that the Farretta court affirmed the right of a person to represent himself in court, and nothing else. The Farretta court did not address or in any manner alter or abolish the mandate of the Sixth Article of Amendment to the United States Constitution, which requires "the Assistance of Counsel for his defence".

FACT 15. PART 4 of the statement (order) of this Court dated January 30, 1985 is not only misleading, but a downright lie, when it states that Zuger:

"...unequivocally elected to defend himself pro se."

FACT 16. The appellant did not elect to defend himself pro se. The appellant claimed the assistance of competent counsel, as of right. (Appendix to Appellant's Brief, A-64, A-65).

FACT 17. Judge Dorsey proceeded to trial, knowing that the appellant claimed the assistance, and said Dorsey deliberately delayed ruling on that claim until July 10, 1984, AFTER the so-called "trial" was held on July 5, 1984. (Appellant's Reply Brief, page 17).

FACT 18. Judge Dorsey unconstitutionally denied the appellant's Sixth Amendment right to "Assistance of Counsel for his defence". (Appendix to Appellant's Brief,

A-67).

FACT 19. The appellant clearly set before this Court the problems faced by the appellant due to the conflict of interests of all State licensed attorneys. (Appellant's Reply Brief, page 17 to page 23, and the full record on appeal).

FACT 20. It is clear that both the lower court and this Court have once again attempted to duck the issues, as evidenced by the statement, erroneously labeled "order" by this Court, and dated January 30, 1985. There is no formal order in this or any other court which has addressed and settled the matter of "Assistance of Counsel for his defence".

FACT 21. The appellant was denied the "effecitive assistance of counsel".

(Appellant's Reply Brief, pages 17 to 23, and the full record on appeal).

FACT 22. The appellant was denied the "Assistance of Counsel for his defence." (Appellant's Reply Brief, pages 17 to 23, and the full record on appeal).

FACT 23. The lower court never had jurisdiction over the person or the subject matter herein appealed. The conviction was and is a fraud. IT MUST BE REVERSED AND REMANDED.

FACT 24. Numerous crimes have been committed by the appellee's agents against the appellant, who is a sovereign citizen. This (appellee's) Court does not have clean hands in this matter. On July 20, 1984, appellant Zuger, together with appellants ALTON W. WHEELER and CALVIN HOLDERMAN, put

Chief Judge FEINBERG and Associate Justice THURGOOD MARSHALL on notice of the denial of our due process rights by this Court (X4-3 to X4-6).

FACT 25. The appellant sent copies of his reply brief to the Attorney General of the U.S.; Solicitor General of the U.S.; Associate Justice of the Supreme Court THURGOOD MARSHALL, for the Second Circuit Court of Appeals; and Mr. WILLIAM E. FOLEY, Director, Administrative Office of the U.S. Courts, pursuant to Title 18, U.S.C., §3 and §4, on December 21, 1984 and January 4, 1985 (See X4-7,to X4-11). This Court is formally put on notice pursuant to said Title 18, U.S.C., §3 and §4 of the crimes, including denial of due process, committed against the appellant by the agents of the appellee, as set forth in the papers filed in this appeal and which form the complete

record in this case. Said record is incorporated by reference with the same force and effect as if fully stated and alleged herein.

FACT 26. Title 18, U.S.C., §4001 prohibits the trial, conviction, and sentence imposed herein, since Title 26, U.S.C. is NOT AN ACT OF CONGRESS. Congress mandates in Title 18, U.S.C., §4001 (a) that:

> "No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress."

Accordingly, the appellant claims and reserves the right to hearing, oral arguments, and a formal opinion by this Court on ALL of his OTHER arguments AFTER this Court finally addresses and settles the arguments set forth concerning PART 1,

PART 2, PART 3, and this PART 4 of said statement (order) of January 30, 1985.

All rights reserved forever.

Dated: February 7, 1985

/S/

LOUIS J. ZUGER
DEFENDANT-APPELLANT
WILKES ROAD
DANBURY, CT 06811

CERTIFICATION

This is to certify that a true and correct copy of the foregoing Claim For Hearing On Part 4 Of C.A.2 "Order" dated January 30, 1985 was mailed, postage prepaid, on February 11, 1985, to:

ALAN H. NEVAS
UNITED STATES ATTORNEY
FOR THE DISTRICT OF CONNECTICUT

MICHAEL HARTMERE
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P.O. BOX 1824
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/S/
LOUIS J. ZUGER.

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
Docket No. 84-1318

---

UNITED STATES OF AMERICA,
Appellee,

v.

LOUIS J. ZUGER,
Appellant.

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

---

CLAIM FOR HEARING ON PART 5
OF C.A.2 "ORDER" DATED JANUARY 30, 1985

---

DISCLAIMER

In order to adequately reply to the Statement mislabeled "order", and dated January 30, 1985, the Appellant cannot avoid addressing the "case law" and "rules" cited therein. In so doing, the Appellant does not in any way waive any of his rights, nor can he lawfully be subjected to "equity law". The Appellant intends to demonstrate the fallacy of Appellee's arguments and the entrapment inherent in

said "case law" and "equity". That the Appellant has rejected said "case law" and "equity" from the first day of this "criminal case" is clear in the record and the Appellant means to keep it that way. The Appellant will continue to rely upon genuine LAW, i.e. the Constitution of the United States and those laws enacted in Pursuance of said Constitution, which SUPPORT (and in turn are supported by) said Constitution.

APPELLANT'S REPLY TO C.A.2's "ORDER" (PART 5)

FACT 1. The statement (order) of January 30, 1985 was the result of an improper hearing before a biased appeals panel. The bias was built into the hearing by the fact that JON O. NEWMAN was one of the three (3) judge panel.

FACT 2. On December 4, 1984, Assistant U.S. Attorney MICHAEL HARTMERE notified this Court that JON O. NEWMAN is a defendant in a lawsuit in which the appellant is one of the plaintiffs.(X5-A)

FACT 3. JON O. NEWMAN was required by law to disqualify himself from hearing this appeal. 28 U.S.C., §455(a), (b)(1), (b)(5).

FACT 4. The hasty statement of this Court dated January 30, 1985 as received by the appellant, which is mislabeled "ORDER" (X5-1,2), contains the following note after the signatures:

"N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

FACT 5. That the statement is hasty is evidenced by the fact that it was issued one (1) day after oral arguments were had. Obviously, this Court did not give any consideration to this appeal at all.

FACT 6. That this "order" is mislabeled is evidenced by the fact that this Court, in its own note, refers to it as a statement, not an order, and also by the fact that said "order" is not a formal opinion of this Court. No actual order has issued from this court on this appeal.

FACT 7. Said "order" of January 30, 1984 essentially breaks down into six (6) parts, namely:

PART 1. The preface paragraph which erroneously states that the appellant was convicted of 2 counts of wilful failure to

file income tax returns under 26 U.S.C. §7203 (1982), and that part of the statement captioned #1., which seem to address the arguments that Title 26, U.S.C. is not law enacted by Congress.

PART 2. Arguments that the district court lacked jurisdiction because of the pendency of an interlocutory appeal.

PART 3. That Judge Dorsey properly failed to disqualify himself from this case.

PART 4. That effective assistance of counsel was not denied to the appellant.

PART 5. All of the appellants arguments were totally ignored.

PART 6. "The judgment of the District

Court is affirmed. The mandate shall issue forthwith."

FACT 8. This is a claim for a hearing, oral arguments, and a formal opinion by this Court on ALL OTHER ARGUMENTS not addressed or settled by the statement (order) of January 30, 1984. Said claim is made as a matter of right. Only for the convenience of this Court does the Appellant refer to Rule 40 (a), (b) of the Rules of Appellate Procedure (which rules are not law).

FACT 9. It is clear that both the lower court and this Court have once again attempted to duck the issue, as evidenced by the statement, erroneously labeled "order" by this Court, and dated January 30, 1985. There is no formal order in this or any other court which has addressed and

settled the interlocutory appeal issue.

FACT 10. The lower court never had jurisdiction over the person or the subject matter herein appealed. The conviction was and is a fraud.

FACT 11. Numerous crimes have been committed by the appellee's agents against the appellant, who is a sovereign citizen. This (appellee's) Court does not have clean hands in this matter. On July 20, 1984, appellant Zuger, together with appellants ALTON W. WHEELER and CALVIN HOLDERMAN, put Chief Judge FEINBERG and Associate Justice THURGOOD MARSHALL on notice of the denial of our due process rights by this Court (X5-3 to X5-6).

FACT 12. The appellant sent copies of his reply brief to the Attorney General of the

U.S.; Solicitor General of the U.S.; Associate Justice of the Supreme Court THURGOOD MARSHALL, for the Second Circuit Court of Appeals; and Mr. WILLIAM E. FOLEY, Director, Administrative Office of the U.S. Courts, pursuant to Title 18, U.S.C., §3 and §4, on December 21, 1984 and January 4, 1985 (See X5-7,to X5-11). This Court is formally put on notice pursuant to said Title 18, U.S.C., §3 and §4 of the crimes, including denial of due process, committed against the appellant by the agents of the appellee, as set forth in the papers filed in this appeal and which form the complete record in this case. Said record is incorporated by reference with the same force and effect as if fully stated and alleged herein.

FACT 12. Title 18, U.S.C., §4001 prohibits the trial, conviction, and sentence imposed

herein, since Title 26, U.S.C. is NOT AN ACT OF CONGRESS. Congress mandates in Title 18, U.S.C., §4001 (a) that:

> "No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress."

Accordingly, the appellant claims and reserves the right to hearing, oral arguments, and a formal opinion by this Court on ALL of his OTHER arguments AFTER this Court finally addresses and settles the arguments set forth concerning PART 1, PART 2, PART 3, and PART 4 of said statement (order) of January 30, 1985.

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Dated: February 7, 1985

LOUIS J. ZUGER
DEFENDANT-APPELLANT
WILKES ROAD
DANBURY, CT 06811

## CERTIFICATION

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UNITED STATES ATTORNEY
FOR THE DISTRICT OF CONNECTICUT

MICHAEL HARTMERE
ASSISTANT UNITED STATES ATTORNEY
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/S/
LOUIS J. ZUGER.

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
Docket No. 84-1318

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UNITED STATES OF AMERICA,
Appellee,

v.

LOUIS J. ZUGER,
Appellant.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

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CLAIM FOR HEARING ON PART 6
OF C.A.2 "ORDER" DATED JANUARY 30, 1985

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## DISCLAIMER

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APPELLANT'S REPLY TO C.A.2's "ORDER"

(PART 6)

FACT 1. The statement (order) of January 30, 1985 was the result of an improper hearing before a biased appeals panel. The bias was built into the hearing by the fact that JON O. NEWMAN was one of the three (3)

judge panel.

FACT 2. On December 4, 1984, Assistant U.S. Attorney MICHAEL HARTMERE notified this Court that JON O. NEWMAN is a defendant in a lawsuit in which the appellant is one of the plaintiffs.(X6-A)

FACT 3. JON O. NEWMAN was required by law to disqualify himself from hearing this appeal. 28 U.S.C., §455(a), (b)(1), (b)(5).

FACT 4. The hasty statement of this Court dated January 30, 1985 as received by the appellant, which is mislabeled "ORDER" (X6 1,2), contains the following note after the signatures:

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otherwise used in unrelated cases before this or any other court."

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FACT 7. Said "order" of January 30, 1984 essentially breaks down into six (6) parts, namely:

PART 1. The preface paragraph which erroneously states that the appellant was

convicted of 2 counts of wilful failure to file income tax returns under 26 U.S.C. §7203 (1982), and that part of the statement captioned #1., which seem to address the arguments that Title 26, U.S.C. is not law enacted byCongress.

PART 2. Arguments that the district court lacked jurisdiction because of the pendency of an interlocutory appeal.

PART 3. That Judge Dorsey properly failed to disqualify himself from this case.

PART 4. That effective assistance of counsel was not denied to the appellant.

PART 5. All of the appellants arguments were totally ignored.

PART 6. "The judgment of the District Court is affirmed. The mandate shall issue forthwith."

FACT 8. This is a claim for a hearing, oral arguments, and a formal opinion by this Court on its statement: "the judgment of the District Court is affirmed. The Mandate shall issue forthwith."

Said affirmation was not based upon, nor did it address, the issues herein appealed, and was not addressed or settled by said statement (order) of January 30, 1984. Said claim is made as a matter of right. Only for the convenience of this Court does the Appellant refer to Rule 40 (a), (b) of the Rules of Appellate Procedure (which rules are not law).

FACT 9. It is clear that both the lower

court and this Court have once again attempted to duck the issue, as evidenced by the statement, erroneously labeled "order" by this Court, and dated January 30, 1985. There is no formal order in this or any other court which has addressed and settled a judgment affirming the conviction.

FACT 10. The lower court never had jurisdiction over the person or the subject matter herein appealed. The conviction was and is a fraud.

FACT 11. Numerous crimes have been committed by the appellee's agents against the appellant, who is a sovereign citizen. This (appellee's) Court does not have clean hands in this matter. On July 20, 1984, appellant Zuger, together with appellants ALTON W. WHEELER and CALVIN HOLDERMAN, put

Chief Judge FEINBERG and Associate Justice THURGOOD MARSHALL on notice of the denial of our due process rights by this Court (X6-3 to X6-6).

FACT 12. The appellant sent copies of his reply brief to the Attorney General of the U.S.; Solicitor General of the U.S.; Associate Justice of the Supreme Court THURGOOD MARSHALL, for the Second Circuit Court of Appeals; and Mr. WILLIAM E. FOLEY, Director, Administrative Office of the U.S. Courts, pursuant to Title 18, U.S.C., §3 and §4, on December 21, 1984 and January 4, 1985 (See X6-7, to X6-11). This Court has been formally put on notice, pursuant to said Title 18, U.S.C., §3 and §4, of the crimes, including denial of due process, committed against the appellant by the agents of the appellee, as set forth in the papers filed in this appeal and which form

the complete record in this case. Said record is incorporated by reference with the same force and effect as if fully stated and alleged herein.

FACT 13. Title 18, U.S.C., §4001 prohibits the trial, conviction, and sentence imposed herein, since Title 26, U.S.C. is NOT AN ACT OF CONGRESS. Congress mandates in Title 18, U.S.C., §4001 (a) that:

> "No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress."

Accordingly, the appellant claims and reserves the right to hearing, oral arguments, and a formal opinion by this Court on the affirmation of judgment AFTER this Court finally addresses and settles the arguments set forth concerning PART 1,

PART 2, PART 3, PART 4, and PART 5 of said statement (order) of January 30, 1985.

All rights reserved forever.

Dated: February 7, 1985

/S/

LOUIS J. ZUGER
DEFENDANT-APPELLANT
WILKES ROAD
DANBURY, CT 06811

CERTIFICATION

This is to certify that a true and correct copy of the foregoing Claim For Hearing On Part 6 Of C.A.2 "Order" dated January 30, 1985 was mailed, postage prepaid, on February 11, 1985, to:

ALAN H. NEVAS
UNITED STATES ATTORNEY
FOR THE DISTRICT OF CONNECTICUT

MICHAEL HARTMERE
ASSISTANT UNITED STATES ATTORNEY
P.O. BOX 1824
NEW HAVEN, CONNECTICUT 06508

MR. WILLIAM E. FOLEY, Director
Administrative Office Of The U.S. Courts
Washington, DC 20544

Attorney General of the United States
United States Department of Justice
Criminal Division
Washington, DC 20530

Solicitor General of the United States
United States Department of Justice
Washington, DC 20530

Associate Justice of the Supreme Court
THURGOOD MARSHALL, For The Second Circuit Court of Appeals
United States Supreme Court House
Washington, DC 20543

/S/
LOUIS J. ZUGER.

U.S. Department of Justice
United States Attorney
District of Connecticut

139 Orange Street
Post Office Box 1824
New Haven, Connecticut
06508
December 4, 1984

Honorable Elaine B. Goldsmith
Clerk
United States Court of Appeals
Second Circuit
United States Courthouse
Foley Square
New York, New York 10007

RE: United States v. Zuger, Docket No. 84-1318
United States v. Holderman, Docket No. 84-1310

Dear Ms. Goldsmith:

This is to inform you that Louis J. Zuger and Calvin Holderman, Jr., both of whom have appeals pending in the United States Court of Appeals for the Second Circuit, are plaintiffs in lawsuits brought against various federal officials in Connecticut. Named as defendants were Honorable Thomas J. Meskill, Honorable Jon O. Newman, Honorable Ralph K. Winter, and

Honorable William H. Timbers of the United States Court of Appeals for the Second Circuit.

As both Mr. Holderman and Mr. Zuger have oral arguments in their respective appeals scheduled for the very near future, I bring this to your attention for whatever action the Court deems approproate.

Yours sincerely,
ALAN H. NEVAS
UNITED STATES ATTORNEY

/S/ Michael Hartmere
MICHAEL HARTMERE
ASSISTANT UNITED STATES ATTORNEY

MH:ncb

cc: Mr. Louis J. Zuger, Wilkes Road, Danbury, CT 06811
Mr. Calvin Holderman, Jr., RFD #1, Glen Eyrie Farm, New Milford, CT 06776

***Note: This is Exhibit marked: X1-A
X2-A
X3-A
X4-A
X5-A
X6-A

July 20, 1984

WILFRED FEINBERG, Chief Judge
United States Court of Appeals
For the Second Circuit
United States Courthouse
Foley Square
New York, NY 10007

Re: USA v. ZUGER CA Docket No. 84-3053
USA v. WHEELER CA Docket No. 84-3054
USA v. HOLDERMAN CA Docket No. 84-3059

USA v. ZUGER CA Docket No. 84-1213
USA v. WHEELER CA Docket No. 83-2215
USA v. HOLDERMAN CA Docket No. 84-1209

Dear Mr. Feinberg:

In the first three (3) abovelisted claims for Writ of Mandamus, the parties have not been favored with a scheduling order indicating when, if ever, these claims will be heard by this Court. Due process mandates scheduling orders and hearings on said Writs of Mandamus.

In addition, while these cases are in this Court, and have been for some time, the lower court continues to steamroll over the defendant-appellants due process

rights. This is especially significant, since these matters are not, and have not been in the district court since notice of appeals were originally filed in these cases. You ought to take the time to read these writs. Fpr instance:

In No. 84-1213, U.S. Attorney HARTMERE moved this Court on June 15, 1984 to dismiss the interlocutory appeal entered by ZUGER, Among other reasons given by HARTMERE for dismissal, was that this case has to be returned to the district court because jury selection was scheduled for June 26, 1984. No scheduling order issued from this Court, no hearings were held, and no briefs submitted by either side sans scheduling order. On June 28, 1984, this Court summarily dismissed this appeal without comment or reason. It is clear that this case was certainly in this Court from

at least June 15, 1984 through June 28, 1984, by this Court's own record, and by the admission of U.S. Attorney HARTMERE. Nevertheless, said HARTMERE and U.S.D. Judge DORSEY, with full knowledge that this case was in this Court on appeal, forced Defendant-Appellant ZUGER to trial on June 26, 1984. The details are set forth in NO. 84-3053 abovementioned.

In No. 83-2215, a Scheduling Order was issued by this Court on or about September 4, 1983 advising Defendant-Appellant WHEELER to be ready for oral arguments on or after November 28, 1983. To date there has been no hearing on this appeal, nor has any further scheduling orders issued from this Court. A check with the Clerk of this Court indicated that this matter had not been heard because the district court had not forwarded the appendix as yet. The

details are set forth in No. 84-3054 above.

In No. 84-1209 a Notice of Appeal was filed on June 4, 1984, at which time this case was removed to this Court on interlocutory appeal. Applications were made for stay pending twice (2 times) to the U.S. District Court, this Court, and the Supreme Court of the United States. ALL SIX (6) attempts to stay proceedings were summarily rejected. On June 19 and 20, 1984 Defendant-Appellant HOLDERMAN was forced to "trial" in the district court. On or about June 29, 1984, scheduling order No. 1 did issue from this court. It is clear that this appeal was in this Court from June 4, 1984 until at least June 29, 1984, when scheduling order No. 1 was issued. It is also clear that there was nothing in the district court to "try" on June 19 and 20, 1984. The details of this lawlessness are

outlined in No. 84-3059 abovementioned.

A pattern of this Court routinely denying due process has emerged. The cavalier disregard of due process by the lower court and this Court makes the undersigned wonder if the courts understand their function and purpose any longer. It would appear as if all three (3) federal courts [district, appeals, supreme] have merged, with the lowest court controlling both the Court of Appeals for the Second Circuit, and the Supreme Court of the United States as well. Certainly, this Court on notice by the abovementioned six (6) appeals, has failed miserably to oversee the lower court in the six (6) abovementioned appeals.

That the Defendant-Appellants have been, and continue to be, deprived of their

due process rights is a matter of record in both the lower court and this Court. How much longer do the courts expect to get away with such lawlessness, before the people abolish said courts, which they indeed created, and which they indeed have the power to abolish?

In the interest of Justice, allowing for the delays in this Court which undoubtedly will continue, it would be fitting, proper and necessary that stays of proceedings immediately issue from this Court to prevent continued and further lawlessness in the lower court. All Three (3) cases are on appeal, and all three (3) cases have also filed claims for Writ of Mandamus. Delays in hearing and staying proceedings pending appeal only compound the denial of due process.

We cannot too strongly urge that immediate stays issue from this court pending final determination of appeals in light of our prior experience in both the lower court and this court.

/s/
LOUIS J. ZUGER
Wilkes Road
Danbury, CT 06811

/s/
ALTON W. WHEELER
P.O. Box 638
New Milford, CT 06776

/s/
CALVIN HOLDERMAN, JR.
RFD 1, Glen Eyrie Farm
New Milford, CT 06776

copy to: THURGOOD MARSHALL,
Associate Justice
Supreme Court of the United States
Washington, DC 20543

***Note: This exhibit is marked as follows:
X1-3 to X1-6
X2-6 to X2-9
X3-3 to X3-6
X4-3 to X4-6
X5-3 to X5-6
X6-3 to X6-6

LOUIS J. ZUGER
Wilkes Road
Danbury, CT 06811
January 4, 1985

Office of the Clerk
Supreme Court of The United States
Washington, D.C. 20543

Attention: FRANCIS J. LORSEN,
Chief Deputy Clerk

Dear Mr. Lorsen:

I have your cover letter dated December 11, 1984 in which you informed me that:

"Your papers sent to Justice Marshall were received December 24, 1984 and are returned inasmuch as this Court has no jurisdiction to review this complaint in its present posture."

I did not send the papers for review. Those papers were sent to Justice Marshall pursuant to Title 18, U.S.C., §3 and §4, in order to inform him of the corruption and criminallawlessness in the lower courts under his supervision.

Accordingly, I am returning the papers

to you herewith. I shall expect you to make certain that these papers are brought to the attention of Mr. Associate Justice MARSHALL, in order to avoid further delay. Thank you.

Sincerely,
/s/
Louis J. Zuger.

***Note: This exhibit is marked X1-11; X2-14; X3-11; X4-11; X5-11; X6-11.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

| | | |
|---|---|---|
| UNITED STATES OF AMERICA | : | |
| -vs- | : | Civil No. N-84-21 |
| LOUIS J. ZUGER | : | (PCD) |

RULING ON PENDING MOTIONS

Defendant is charged in two counts with willful and knowing failure to file income tax returns for the tax years of 1977 and 1978, in violation of Section 7203 of the Internal Revenue Code, 26 U.S.C. §7203. The law as in effect during the tax years in question provided that, upon conviction for this misdemeanor offense, a person shall be fined not more than $10,000 or imprisoned not more than one year, or both, and shall be responsible for the costs of prosecution. At a bond hearing held May 24, 1984, after this matter was reassigned to the undersigned, the court determined to treat three documents filed by the pro se

defendant as motions to dismiss directed to the jurisdiction and authority of the court to act in this matter. Defendant was given until June 11, 1984, to secure counsel, if desired, and file any further materials relating to the jurisdictional infirmities alleged in the three pleadings. As no counsel has appeared and nothing further has been filed by defendant, the motions are ripe for resolution.

Under date of April 1, 1984, defendant filed a document entitled "Special Appearance" which, under the general head of "No Jurisdiction," asserted thirteen grounds or "counts" for his claim that the information must be dismissed. The first seven counts are variations on the theme that, inasmuch as Title 26 - and for that matter in excess of half the United States Code - has not been enacted into positive law under 1 U.S.C. §204(a), it is not law

at all, thus rendering null and void any proceedings or prosecution thereunder. This abstruse contention wholly misconstrues the nature of legislation and the significance of the codification of law.

Defendant asserts that, unless and until Congress enacts a title of the United States Code into positive law, the title and all provisions contained therein are of no legal force. A necessary corollary to this transparently semantic argument is that a majority vote of the respective houses of Congress on a resolution reported out by the appropriate committee or committees does not make law. Such a notion, anathema to any rational legislative process, is totally inconsistent with the process contemplated by the constitution. Instead, a piece of legislation takes effect according to its terms when Congress properly addresses a bill and

the President either signs it, fails to object within ten days, or vetoes it but Congress overrides the veto. This, and only this, is legislation or statutory law.

Codification of existing legislation is an entirely different, subsequent and largely ministerial matter, directed towards the proper and commendable goal of collecting the multitude of congressional enactments in force and organinzing them in a readily-accessible manner. The "United States Code" is, of course, such a codification. The Acts of Congress do not take effect or gain force by virtue of their codification into the United States Code; rather, they are simply organized in a comprehensive way under the rubric of appropriate titles, for ready reference.

Nor does the enactment into "positive" law of a title of the United States Code

make or unmake the efficacy or force of a duly-enacted law. Instead, congressional enactment of a title of the United States Code, as such, into positive law is relevant only to the question of whether the contents of that Code itself, as such, are to be deemed to constitute full and faithful reflections of the law in force as Congress has enacted it. Where a title has not undergone the mystical-sounding ritual of "enactment into positive law," recourse to the numerous volumes of the statutes at large or other records of congressional proceedings is available in case a question arises as to the accuracy of the version of the law as reflected in the Code vis-a-vis the law as enacted by Congress. Where a title has, however, been enacted into positive law, the Code title itself is deemed to constitute conclusive evidence of the law; recourse to other sources is

unnecessary and precluded.

Thus, a codification is evidence of law as Congress enacted it. Enactment into positive law only affects the weight of that evidence. Congress has set all of this forth for a law now codified in language somewhat more technical that the above at 1 U.S.C. §204(a). Under this section, and as plainly explained in defendant's own Exhibit 5 appended to his motion, whenever a title, as such, is enacted into positive law, the text of that title constitutes legal evidence of the laws contained in that title. In construing a provision of such title, a court may neither permit nor require proof of the underlying original statutes. Where, however, a title, as such, has not been enacted into positive law, then the title is only prima facie or rebuttable evidence of the law. If construction of a provision to such a

title is necessary, recourse may be had to the original statutes themselves. 1 U.S.C. §204(a). See United States v. Welden, 377 U.S. 95 (1964).

Thus, the failure of Congress to enact a title as such and in such form into positive law - the criteria for such a determination being those detailed in defendant's Exhibit 6 - in no way impugns the validity, effect, enforceability or constitutionality of the laws as contained and set forth in the title. Defendant's argument that Title 26 is without legal force is therefore specious. The remaining assertions in defendant's April 2 pleading need not detain the court. While the constitution does not, as defendant notes, explicitly refer to nor create an Internal Revenue Service, that fact cannot be said to preclude congressional delegation of tax-collecting authority to an executive

agency, such as the IRS. There is nothing improper in the prosecution of this action.

The fact that the undersigned's salary is paid by the United States neither dictates nor suggests the need for recusal under 28 U.S.C. §455(a)("Any justice, judge or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned"). The court has no doubt concerning its impartiality and finds no reasonable person with knowledge of the facts would come to any different conclusion. Disqualification on such a basis would not be restricted to any one judge, but would mean that no federal judge could preside over the trial of a federal crime. If such claim were not dismissed as farsical, on its face, it would further violate the time-honored Rule of necessity, United States v. Will, 449 U.S. 200 (1980),

whereby a judge is not disqualified to try a case because of personal interest if there is no other judge available to hear and decide the issue. Finally, defendant's comments regarding lack of equitable jurisdiction appear misdirected in this criminal prosecution. To the extent the "Special Appearance" filed April 18, 1984, purports to challenge the jurisdiction of this court, it is denied.

Both the "Special Appearance" filed April 18, 1984, and the "Stay and Order" filed April 23, 1984, are based on the pendency of the challenge decided above. Deemed also to be motions, both are denied as moot.

Defendant's assumption in his "Notice," filed June 13, 1984, that all proceedings are stayed pending the resolution of his appeal, is quite erroneous. Effective this date with the issuance of this order, the

case shall proceed. Jury selection is scheduled as per previously issued calendar for June 26, 1984, at the Hartford seat of court. For defendant's convenience, the status conference originally scheduled for June 28, 1984, shall be held at 8:30 a.m. on June 26, 1984, the date of jury selection. Trial, on a date to be confirmed either by subsequent calendar or on the day of jury selection, shall commence shortly thereafter.

SO ORDERED.

Dated at Hartford, Connecticut, this 18th day of June, 1984.

/s/
Peter C. Dorsey
United States District Judge